

MDL 1570 PLAINTIFFS' EXECUTIVE COMMITTEES

In re: Terrorist Attacks on September 11, 2001 (S.D.N.Y.)

Plaintiffs' Executive Committee for Personal Injury and Death Claims	Plaintiffs' Executive Committee for Commercial Claims
Ronald L. Motley (1944-2013) Jodi Westbrook Flowers / Donald A. Migliori, <i>Co-Chairs</i> MOTLEY RICE LLC James P. Kreindler, <i>Co-Chair</i> KREINDLER & KREINDLER LLP	Stephen A. Cozen, <i>Co-Chair</i> Sean Carter, <i>Co-Chair</i> COZEN O'CONNOR
Andrew J. Maloney III, <i>Co-Liaison Counsel</i> KREINDLER & KREINDLER LLP Robert T. Haefele, <i>Co-Liaison Counsel</i> MOTLEY RICE LLC	J. Scott Tarbutton, <i>Liaison Counsel</i> COZEN O'CONNOR

VIA ECF

May 20, 2021

The Honorable Sarah Netburn, U.S. Magistrate Judge
 United States District Court for the S.D.N.Y.
 Thurgood Marshall U.S. Courthouse, Room 430
 40 Foley Square
 New York, NY 10007

Re: *In Re: Terrorist Attacks on September 11, 2001, 03 MDL 1570 (GBD) (SN)*

Dear Judge Netburn:

The Plaintiffs' Executive Committees, with the consent of the counsel for the Merits and Jurisdictional defendants ("defendants")¹, request a brief extension of the July 23, 2021 expert discovery schedule (ECF No. 6650) to address the scheduling of one deposition of plaintiffs' expert Evan Kohlmann. The parties agree, if the Court will permit, to conduct Mr. Kohlmann's deposition on August 5 and 6, 2021. We respectfully ask that the Court authorize this extension.

The parties have collectively identified and served reports for 23 experts, including 6 experts for plaintiffs and 17 for the defendants. Of those experts, plaintiffs have expressed the intention of deposing 10 of the defendants' 17 experts, have conducted the deposition of 4 of the 10, and have noticed the remaining 6 depositions on dates agreed among the parties. Defendants have noticed or expressed an intention to notice the depositions of each of plaintiffs' 6 experts. Of those 6, defendants have deposed 2, and the parties have agreed on dates within the existing deadline for 3.

Due to a variety of scheduling challenges, we have been unable to schedule Mr. Kohlmann's deposition within the existing deadline of July 23, 2021. As the Court is aware, in addition to the expert depositions concerning the claims against the Merits and Jurisdictional defendants, the parties are simultaneously addressing the deadline for conducting depositions of witnesses regarding the claims against Saudi Arabia. The dual-tracked process has been complicated by the schedules of the

¹ Dubai Islamic Bank, International Islamic Relief Organization, Muslim World League, World Assembly of Muslim Youth, Yassin Kadi, Dr. Abdullah bin Saleh Al-Obaid, Adnan Khalil Basha, Dr. Abdullah Omar Naseef, and Dr. Abdullah bin Abdalmohsen Al-Turki.

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various experts and other witnesses, the continued complications attendant to the pandemic, and the need to schedule larger blocks of deposition time due to the multi-day depositions requested for nearly all of plaintiffs' expert witnesses, including Mr. Kohlmann. Most importantly in regard to scheduling Mr. Kohlmann's deposition, his travel plans have him travelling during much of the month of July, and he has indicated that he anticipates issues with intermittent internet availability and reception (at best), making a remote deposition during this time frame impracticable. Accordingly, Mr. Kohlmann has asked that plaintiffs respectfully request an extension of the Court's July 23, 2021 deadline to allow for his deposition to be completed on the dates conditionally agreed among the parties, August 5 and 6, 2021.

Related to this request, if and only if the Court grants the extension regarding Mr. Kohlmann, the plaintiffs have agreed to defendants' request for additional time beyond the presumptive seven-hour limit (for English-speaking witnesses) for the depositions of three of plaintiffs' remaining four expert witnesses. The parties have agreed that, in certain instances where depositions are anticipated to address complicated issues, additional time beyond the presumptive time periods set out by the rules and previously established in this litigation may be appropriate.

Although the parties initially disagreed as to the amount of additional time appropriate for these expert depositions, the parties have agreed that, if the Court grants the extension as to Mr. Kohlmann, then the parties agree to the following additional time for the remaining depositions: defendants would be afforded up to 13 hours of initial questioning for plaintiffs' experts Messrs. Kohlmann and Winer, and up to 9 hours of initial questioning for Mr. Comras.² Additionally, plaintiffs would be afforded up to 13 hours of initial questioning for defendant World Assembly of Muslim Youth's expert Dr. Sageman, and defendants would not object to additional time up to 30 minutes over the presumptive limit for the remaining defense experts (effectively creating a 7.5 hour limit).³

We respectfully request Your Honor's approval of the schedule and limits addressed herein.

Respectfully submitted,

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² Plaintiffs previously agreed to afford defendants 10.5 hours to depose plaintiffs' expert Dr. Levitt.

³ Defendants have asked that we add the following statement of position to this letter: Defendants' position is that additional time is needed for each defendant to have a fair and adequate opportunity to question four of the Plaintiffs' six experts. With respect to Messrs. Kohlmann and Winer, defendants requested 13 hours with each witness given the wide-ranging issues and length of these witnesses' reports, which exceeded more than 300 pages combined and concerned multiple defendants.

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For the Plaintiffs' Exec. Committees

For the Plaintiffs' Exec. Committees

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